IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.75 OF 2005
IN
SUMMARY SUIT NO.2668 OF 2004

Bank of Maharashtra ....Plaintiff
V/s.
Baspa Organic Ltd. & Ors. ....Defendants

Mr.I.A. Nastkwala for the Plaintiff.
Mr.H.H. Trivedi for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH OCTOBER, 2005.

P.C. :

1. The suit is filed to recover the amounts due in respect of certain facilities granted by the Plaintiff to the Defendant. The suit is based on a demand promissory note executed by Defendant No.1 for a sum of Rs.6,13,328=98 repayable with interest at 16% p.a. The same is also admitted and acknowledged by a writing dated 20th February, 2002. Defendant No.1 is the principal borrower. The other Defendants are the guarantors.

2. The execution of the promissory note and the writing is not denied. It is however, submitted that in fact no amount was advanced but that the amount

really is a reflection of adjustment of the amounts due under a cash credit facility granted previously by the Plaintiff to the Defendants. The Plaintiff's case is that the documents in this suit were executed in respect of temporary over draft facility.

3. The learned counsel appearing on behalf of the Defendants stated that the Plaintiff has filed recovery proceedings before the Debt Recovery Tribunal in respect of the cash credit facility, where the documents relied upon are the same as the documents relied upon in this suit. The learned counsel appearing on behalf of the Defendants however, was unable to produce the documents to establish this case. When asked repeatedly, he admitted that such a case is not pleaded in the affidavit in reply. Thus there is no defence to the suit.

4. The learned counsel appearing on behalf of the Plaintiff makes a statement that the Plaintiff gives us the securities, if any, it has in respect of the suit claim.

5. In the circumstances, the Summons for Judgment is made absolute and the suit is decreed as prayed with costs.

. Refund as per rules.